HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No.5006 of 2007

DATE: 12.3.2007

Between:
M/s Ganesh Polythene Industry

…Petitioner

And

The Divisional Engiener, (Operation),
Northern Power Distribution Co. of A.P.Ltd.,
Mancherial, Adilabad District and others.

… Respondents

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ORDER:

The petitioner is receiving power supply under S.C. No. 21285 at Mancherial Town under Category III. The premises were inspected on 23.2.2007. On finding that the seals of meter boxes were tampered and other irregularities have taken place, the 1st respondent issued notice of provisional assessment estimating the pilfered power at Rs.1,62,754/-. The petitioner was given an opportunity to pay half of the said amount, being Rs.81,302/-, if it wants continuance of power supply. On the ground that the petitioner did not pay the amount, the power supply was disconnected. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the Respondent.

The inspecting officials found certain irregularities said to have been committed by the petitioner. A notice of provisional assessment is issued. The ultimate liability of the petitioner is to be decided in the order of final assessment.

Section 126 of the Electricity Act, 2003 prescribes the procedure to be followed in cases whenever malpractices are noticed.

The question as to whether the consumer can be compelled to pay any amount on the basis of a notice of provisional assessment was examined by this Court in Writ Appeal Nos. 452 and 477 of 2004, dated 11.3.2004. On an interpretation of Section 126 of the Act, it was held that no amount can be levied on the strength of provisional assessment notice.

Following the same, the writ petition is allowed and the respondents are directed to restore power supply to the petitioner without insisting on payment of any amount on the strength of the notice of provisional assessment. The liability of the petitioner would depend upon the out come of the order of final assessment that may be passed on consideration

of the representation submitted by the petitioner. The petitioner, shall, however be under obligation to pay the consumption charges regularly.

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L. NARASIMHA REDDY,J

12th March, 2007

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